

Serial No. 10/801,741

Docket No. P03074D1

REMARKS

Reconsideration of claims 17-29 and consideration of new claims 30-33 is respectfully requested. New claims 30-33 are supported in-part at page 1, paragraph [0002] and the data provided in Chart 1 on page 9.

The rejection of claims 17-29 under 35 USC 103 (a) as unpatentable over Refojo et al. (US 5,336,487) is respectfully traversed with respect to the amended claims. The examiner states that Refojo describes using a tamponade containing silicon oil in an ophthalmic procedure, but is "silent about how the silicon oil or fluid was made." Official Action, page 3. The examiner then ignores (does not give patentable weight) the claim recitation that the tamponade consists essentially of a "silicon oil that was purified by supercritical carbon dioxide extraction". This is error. The examiner cannot simply choose to ignore a limitation to a claim, particularly if that limitation is the entire essence of the invention.

Applicants are not claiming the use of a tamponade that contains any type of silicon oil, but rather, a very particular type of silicon oil that was purified by supercritical carbon dioxide extraction. Also, applicants concede that the use of silicon oil as a vitreous fluid was known, and that the purification of silicon oil by supercritical CO₂ extraction was also known at the time of the invention. What was not known, or more importantly, not obvious to one of ordinary skill in the art, was to use a silicon oil that was purified by supercritical CO₂ extraction as a tamponade in ophthalmic surgery.

Applicants submit that there was no teaching or suggestion in the art to select the particular claimed silicon oil for use as a tamponade in ophthalmic surgery. Accordingly, applicants respectfully request that the rejection be withdrawn.

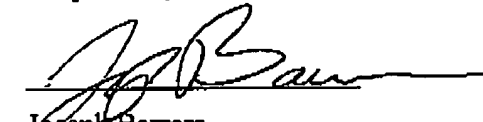
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Respectfully submitted,


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